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Note verbale dated 3 November 2004 from the Permanent Mission of Kazakhstan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Kazakhstan to the United Nations presents its compliments to the Chairman of the Committee and, with reference to the latter's note verbale dated 21 June 2004, has the honour to transmit herewith the first report of the Government of the Republic of Kazakhstan in accordance with paragraph 4 of Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 3 November 2004 from the Permanent Mission of Kazakhstan to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

Report by Kazakhstan on measures taken to implement Security Council resolution 1540 (2004)

This report was prepared in conformity with paragraph 4 of Security Council resolution 1540 (2004) for submission to the Security Council Committee established in accordance with rule 28 of the Council's provisional rules of procedure and pursuant to the aforementioned resolution.

Paragraph 1

Kazakhstan affirms its resolve actively to combat the proliferation of weapons of mass destruction in all its aspects and to support measures by the international community to combat the proliferation of weapons of mass destruction using all available forces and means.

Kazakhstan's policies on disarmament and non-proliferation of weapons of mass destruction are determined in accordance with its foreign policy, which is based on its commitment to strengthening international security, developing cooperation among States and increasing the role of international organizations in resolving global problems and conflicts.

Since gaining independence, Kazakhstan has taken a number of specific steps that demonstrate its firm intent to strengthen the non-proliferation regime. They include:

- Closing the Semipalatinsk Nuclear Test Site;
- Acceding to the Treaty on the Non-Proliferation of Nuclear Weapons as a non-nuclear-weapon State;
- Removing all nuclear warheads from the territory of Kazakhstan;
- Becoming a party, as a successor State of the former Soviet Union, to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms;
- Becoming a party, as a successor State of the former Soviet Union, to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles;
- Joining the International Atomic Energy Agency (IAEA) and placing all nuclear facilities in the Republic under IAEA safeguards;
- Converting former test-site infrastructure and scientific and technical capacity at former military complexes;
- Signing the Comprehensive Nuclear-Test-Ban Treaty and working actively to modernize seismic stations located in the territory of Kazakhstan that are part of the global monitoring network.

Paragraph 2

Attempts to illicitly transfer weapons, explosive, poisonous or psychotropic substances and radioactive material across the State border are detected, prevented and suppressed, in accordance with article 7 of the Act of the Republic of Kazakhstan "On measures to combat terrorism" of 13 July 1999, as amended by the Act of the Republic of Kazakhstan of 19 February 2002.

Under article 243 of the Criminal Code of the Republic of Kazakhstan of 16 July 1997, the illegal export of technology, scientific and technical data and services that could be used in the production of weapons of mass destruction and their means of delivery and arms and military hardware subject to special export controls is punishable by deprivation of liberty for 3 to 10 years.

Article 250 (Smuggling of items withdrawn from circulation or items with restricted circulation) prohibits the illicit transfer across the State customs border of toxic, poisonous, radioactive or explosive substances, arms, military hardware, explosive devices, firearms and ammunition, nuclear, chemical, biological and other weapons of mass destruction and materials and equipment that could be used in the production of weapons of mass destruction.

Article 247 (Illicit trafficking in radioactive material) contains the following provisions:

"1. The illicit acquisition, storage, transportation, use, destruction or burial of radioactive material shall be punishable by restriction of liberty for up to 2 years or deprivation of liberty for up to 3 years.

2. The illicit sale of radioactive material and the illicit acquisition, storage or transportation of radioactive material for the purpose of selling it shall be punishable by deprivation of liberty for 2 to 6 years.

3. If the acts referred to in paragraphs 1 and 2 of this article result through negligence in the death of a person or other serious consequences, they shall be punishable by deprivation of liberty for 3 to 10 years."

Article 248 (Theft or extortion of radioactive material) provides that:

"1. Theft or extortion of radioactive material shall be punishable by a fine of 700 to 1,000 times the monthly accounting index or 5 to 10 months' wages, or by deprivation of liberty for up to 5 years.

2. If the same acts are committed:

(a) By a group of people by prior agreement;

(b) More than once;

(c) By a person using his or her official position;

(d) With the use of force, but without jeopardizing human life or health, or with the threat of such force;

they shall be punishable by deprivation of liberty for up to 7 years, with or without confiscation of property.

3. If the acts referred to in paragraphs 1 and 2 of this article are committed:

(a) With the use of force, jeopardizing human life or health, or with the threat of such force;

(b) By an organized group;

they shall be punishable by deprivation of liberty for 5 to 10 years, with confiscation of property."

Article 249 (Violation of the rules on radioactive material management) states that:

"1. Violation of the rules on the possession, use, accounting for, burial and transit of radioactive material and of other rules on radioactive material management, where this could result in the death of a person or other serious consequences, shall be punishable by a fine of 500 to 1,000 times the monthly accounting index or 5 to 10 months' wages, or by short-term rigorous imprisonment for up to 6 months.

2. If the same act results through negligence in the death of a person or other serious consequences, it shall be punishable by deprivation of liberty for up to 5 years."

Paragraph 3

Control of the trade in nuclear material and equipment, dual-use technology and weapons is an important component of Kazakhstan's policy on non-proliferation of weapons of mass destruction.

At a meeting held in September 2004 under the chairmanship of the Minister for Foreign Affairs, the interdepartmental commission on foreign policy issues of the Security Council of Kazakhstan considered measures to prevent international terrorism and illegal migration and promote international cooperation in the field of export control. It was decided to develop a plan of action for the further enhancement of the Republic's export control system, providing for the introduction of an automated export control system, strengthening of customs controls and in-service training for officials of government agencies involved in export control activities.

The foundations of Kazakhstan's export control system were laid in March 1993 with the adoption of Decision No. 183 of the Cabinet of Ministers of Kazakhstan "On the export and import of nuclear material, technology, equipment and facilities, special non-nuclear material, dual-use equipment, materials and technology, sources of radioactive emanation and isotope products".

The implementation of this text created conditions for the development of effective State controls on activities in the nuclear sphere and the introduction of an automated system of accounting for nuclear material, both within enterprises and at the national level.

The next step was the issuance in March 1995 of a government decision defining categories and lists of goods subject to export controls, including arms, raw materials and supplies for the production of arms, nuclear material, and dual-use goods, technology and equipment that could be used in the production of missile, chemical and bacteriological weapons.

Building on all the previous laws and regulations, in 1997 the President signed the Decree Law "On licensing", establishing the procedure for the issuance of licences for export-import operations and defining the rights and duties of both the licensing body and the applicant.

In August 1999 rules were elaborated on the issuance by the Government of permits for the transit through the territory of Kazakhstan of goods subject to export controls, pursuant to Government Decision No. 1143 "On specific issues relating to the transit of goods subject to export controls".

In December 1999 the State Commission for Export Control was established, in accordance with Government Decision No. 1917 "On the enhancement of the export control system of the Republic of Kazakhstan".

In 1996 Kazakhstan was one of the first countries of the Commonwealth of Independent States (CIS) to adopt an Act "On export controls on arms, military hardware and dual-use goods"; this Act became the cornerstone of the national export regulation system. Pursuant to the Act, a list was drawn up of goods that could not be exported or imported without government authorization. Licensing procedures were approved, as well as a set of safeguards to ensure that exported goods were used only for the purpose stated. A mechanism was developed to monitor compliance with the rules, and responsibility was established for violating them.

The Act was amended and supplemented in 2000 in order to broaden its scope of application. Such concepts as comprehensive and intra-firm monitoring were introduced, and definitions were established of the powers of the President of Kazakhstan, particularly with respect to the imposition and lifting of embargoes on the supply of dual-use goods.

Article 2 of the Act establishes the following principles for the implementation of the State export control policy:

- Compliance with international commitments relating to non-proliferation of weapons of mass destruction, other types of dangerous weapons and their means of delivery;
- Primacy of political interests in the implementation of export controls;
- Verification of the end use of goods subject to export controls within the framework of the non-proliferation regime and in accordance with international commitments;
- Accessibility of information on export control legislation;
- Prevention of access to support for international terrorism;
- Coordination of efforts and cooperation with international organizations and foreign States in the field of export control;
- Conformity of export control procedures and rules with universally recognized international norms and practices.

In article 6 of the Act, lists of goods subject to export controls are established and approved.

They include:

- Conventional arms and military hardware, and raw materials, supplies, special equipment and technology, labour and services relating to their production;
- Nuclear and special non-nuclear material, equipment, facilities and technology, sources of ionizing radiation, isotope products, dual-use equipment and technology, labour and services relating to their production;
- Chemicals and dual-use technology that could be used in the production of chemical weapons, according to the lists established by international non-proliferation regimes;
- Pathogens, genetically modified forms thereof and fragments of genetic material that could be used in the production of bacteriological (biological) and toxin weapons, according to the lists established by international non-proliferation regimes;
- Missile hardware, motors and components thereof, and equipment, materials and technology used in the production of missile hardware, according to the lists established by international non-proliferation regimes;
- Other types of dangerous weapons;
- Scientific and technical data, services and intellectual property relating to military goods and dual-use technology.

In accordance with article 4, the Act is applicable to the export, re-export, import, re-import and transit of the goods referred to in article 6.

According to evaluations by foreign experts, Kazakhstan is a regional leader in terms of its national regulatory framework in the field of export control.

The admission of the Republic to the Nuclear Suppliers Group in May 2002 was an appropriate reflection of its efforts in this area. The purpose of Kazakhstan's participation in the Group is to further intensify measures to combat terrorism, prevent the proliferation of weapons of mass destruction and strengthen controls on the use and transfer of nuclear material and dual-use goods.

Paragraph 6

Since November 2000 Kazakhstan has been using a new list of goods subject to export controls compiled on the basis of the model lists of the European Union and the Russian Federation. In addition to nuclear, biological and chemical material, this list includes sensitive materials that could be used in the production of missile technology, particularly such items as missile hardware and components thereof, and designs and technology for the production of finished missile systems (ballistic missile systems, carrier missiles and research missiles) capable of delivering payloads over distances of 300 kilometres or more, as well as nuclear material.

Paragraph 8

Kazakhstan is a party to the following multilateral international legal instruments:

- Treaty on the Non-Proliferation of Nuclear Weapons (1993);

– Treaty between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (1992);

– Agreement between the Republic of Kazakhstan and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (1994);

– Comprehensive Nuclear-Test-Ban Treaty (1996);

– Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (1999).

The first step towards the development of Kazakhstan's future non-proliferation policy was the closure of the Semipalatinsk Nuclear Test Site in 1990, when the Soviet Union was still in existence.

On 23 May 1992 in Lisbon, representatives of Kazakhstan, Belarus, Ukraine, the Russian Federation and the United States of America signed a five-sided Protocol specifying their responsibilities with respect to the implementation of the provisions of the Treaty on the Reduction and Limitation of Strategic Offensive Arms concerning the strategic nuclear forces deployed in the territories of the four republics. The Lisbon Protocol also contained undertakings [by Kazakhstan, Belarus and Ukraine] to accede to the Treaty on the Non-Proliferation of Nuclear Weapons as non-nuclear-weapon States. Thus, Kazakhstan took the historic decision to give up its nuclear legacy; this was to be the young State's most important contribution to the cause of non-proliferation of weapons of mass destruction and strengthening global stability and security.

Kazakhstan was the first party to the Strategic Arms Reduction Treaty to fulfil its commitments under the Lisbon Protocol by eliminating its nuclear potential, the fourth in the world in terms of its destructive power.

Having fulfilled its commitments to eliminate its nuclear arsenal, the Republic took decisive steps to dismantle the nuclear-weapon infrastructure on Kazakh soil and switch former military plants to a peaceful track. With support from a number of foreign countries and from IAEA, a wide-ranging programme was implemented to convert former military and research infrastructure, covering both specialists formerly employed in Soviet nuclear military programmes and the test-site infrastructure itself.

Kazakhstan strictly abides by its commitments under the Treaty on the Non-Proliferation of Nuclear Weapons and considers that the Treaty remains a key instrument for nuclear disarmament and prevention of nuclear-weapon proliferation. Kazakhstan supports steady and gradual nuclear disarmament through the fulfilment by all States parties, whether nuclear- or non-nuclear-weapon States, of their commitments under the Treaty. The first stage in this process must be controls on the production of fissile material. In this regard, Kazakhstan believes that it is necessary to initiate, within the Conference on Disarmament, negotiations on the conclusion of a treaty on the prohibition of the production of fissile material for military purposes.

The Republic is taking an active part in negotiations to elaborate a draft treaty on the creation of a nuclear-weapon-free zone in Central Asia.

Kazakhstan is participating in a practical manner in efforts to verify compliance with the Comprehensive Nuclear-Test-Ban Treaty more effectively. There are four seismic tracking stations in its territory capable of locating subterranean phenomena occurring thousands of kilometres away. These stations are used to continuously track natural and man-made seismic activity in the region. The Centre for Processing Special Seismic Data established in Almaty serves as the national data centre for the Comprehensive Nuclear-Test-Ban Treaty Organization. Special seismic data is sent from the stations in real time via satellite communication channels to the national data centre in Almaty and the International Data Centre in Vienna.

The infrastructure of the former nuclear test site at Semipalatinsk is being used to conduct experiments that are of great importance for implementing Treaty-related projects (calibration of equipment for monitoring seismic events). Kazakh specialists are participating fully in international activities in this field.

In September 2004 in Vienna, Kazakhstan signed the Agreement on the Conduct of Activities, including Post-Certification Activities, Relating to International Monitoring Facilities for the Comprehensive Nuclear-Test-Ban Treaty, which provides for the further expansion of our country's activities in implementation of the Treaty and towards the establishment of a global verification regime within the framework of the Treaty.

Kazakhstan attaches great importance to cooperation with IAEA as an international structure that verifies nuclear activities at the global level and thus plays an important role in the cause of non-proliferation of nuclear weapons.

In accordance with the Agreement for the Application of Safeguards, all nuclear facilities in Kazakhstan are under IAEA safeguards and all nuclear activities are conducted in conformity with the Agency's rules and standards.

IAEA regularly conducts inspections at the Republic's nuclear facilities in order to verify and confirm the quantity of nuclear materials and the nuclear activities officially declared by the country.

On 6 February 2004 Kazakhstan signed the Protocol Additional to the Agreement between the Republic of Kazakhstan and the International Atomic Energy Agency for the Application of Safeguards. Preparations for ratification are currently under way. Following the entry into force of the Additional Protocol, it is planned to implement additional measures to strengthen the verification regime for nuclear activities.

Special attention is devoted to increasing the effectiveness of measures to combat illicit trafficking in nuclear and radioactive material. The Republic's export policy complies with all IAEA recommendations on the export and import of nuclear and radioactive material, which, from the very outset, were incorporated in government documents regulating exports and imports.

Kazakhstan plans to incorporate the provisions of the new Code of Conduct on the Safety and Security of Radioactive Sources, approved by the IAEA Governing Council, in its regulatory framework in the near future.

Kazakhstan has signed the following conventions:

– Convention on Nuclear Safety of 19 September 1996;

– Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management of 30 September 1997.

It is currently preparing to sign the following instruments:

– Convention on the Physical Protection of Nuclear Material;

– Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency;

– Convention on Early Notification of a Nuclear Accident;

– Vienna Convention on Civil Liability for Nuclear Damage.

With a view to strengthening further its national export control system, Kazakhstan is considering joining the international nuclear non-proliferation regime, the Zanger Committee, which would be a logical complement to its membership of the Nuclear Suppliers Group.

Recognizing the need to address the new challenges to security and to strengthen measures to combat international terrorism, Kazakhstan has stepped up its efforts to join multilateral non-proliferation regimes. In line with its constructive and consistent non-proliferation policy, Kazakhstan has applied to join the Missile Technology Control Regime and has made significant efforts to meet the membership conditions. Although not officially a member, Kazakhstan supports and complies with the Regime's norms and principles in its export policy.

At the same time, the internal procedures necessary for Kazakhstan to subscribe to the International Code of Conduct against Ballistic Missile Proliferation and for its accession to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects are under way.

Kazakhstan is a State party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. It has established a national body to implement the Convention's provisions. Representatives of Kazakhstan participate regularly in the meetings and annual sessions of the Conference of States Parties to the Convention.

Kazakhstan is taking an active part in the three-year project of the Organization for the Prohibition of Chemical Weapons (OPCW) on assistance to Central Asian States with building capacity in protection against chemical weapons. For example, an international meeting of States members of OPCW on "Planning the three-year project on assistance to Central Asian States with building national and regional capacity in protection against chemical weapons" was held in Kazakhstan in 2003, while in 2004 an international regional workshop took place in Kazakhstan in the context of the project.

Kazakhstan supports international efforts for the effective implementation of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction and intends to contribute further to strengthening the non-proliferation regime for this type of weapon.

Kazakhstan is pursuing the internal procedures necessary for accession to the Biological Weapons Convention.

Kazakhstan is taking consistent and concrete action to prevent and suppress the proliferation of weapons of mass destruction and strengthen international cooperation in this field and is ready to do its utmost to fulfil all the requirements of Security Council resolution 1540 (2004).